

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1022/2006
(Ram Chandra & Anr. V/s State of Rajasthan & anr.)

Date of Order : 30/08/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. H.S.Shrimali, for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 18.10.2005 passed by Additional Sessions Judge No.2, Bikaner (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioners against the order dated 31.1.2004 taking cognizance passed by Judicial Magistrate, Dungargarh (for short 'the trial court' hereinafter), was dismissed.

I have heard learned counsel for the petitioners. Carefully gone through the order passed by the trial court as well as by the revisional court.

On a report lodged by non-petitioner No.2, the matter was investigated by the police. Three successive police officers found the case against the present petitioners. The

matter was initially investigated by Dy. Supdt. Of Police, Anil Kayal, Circle Officer-Sadar, Bikaner who found the prima-facie case against the petitioners and recommended for filing of challan. The investigation was changed at the instance of the petitioners. The matter was again investigated by one Bhupendra Sahu, Additional Superintendent of Police, Bikaner. He also opined that prima-facie case is made out against the petitioners and recommended for filing challan. The investigation was again changed at the instance of the petitioners and the matter was investigated by one Shivlal Joshi, Additional Superintendent of Police, Bikaner, who also found prima-facie case against the petitioners and recommended for filing challan. All the three police officers found prima-facie case against the petitioners for the offences under Sections 447 and 323 IPC as also for the offence under Section 3 (x) of SC/ST (Prevention of Atrocities) Act and recommended for filing challan. The investigation was again changed at the instance of the petitioners and lastly the matter was investigated by one Tribhuwan Singh, Investigating Officer, who recommended to file negative final report.

The trial court, considering the entire material and the investigation carried out by three successive police officers, came to the conclusion that prima-facie there is ground to proceed against the present petitioners and did not accept the negative final report submitted by fourth investigating officer

which was not found to be satisfactory as no reasons have been assigned by the officer who lastly conducted the investigation disagreeing with the earlier investigation. On a revision, the revisional court also did not find any error in the order of the trial court.

In Jagdish Ram Vs. State of Rajasthan, AIR 2004 SC 1734, the Hon'ble Supreme Court held that at the stage of taking cognizance, the Magistrate has only to decide whether sufficient ground exists or not for further proceeding in the matter. It is well settled that notwithstanding the opinion of the police, a Magistrate is empowered to take cognizance if the material on record makes out a case for the said purpose. The Apex Court further held that investigation is the exclusive domain of the police. The taking of cognizance of the offence is an area exclusively within the domain of a Magistrate. At this stage, the Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

In the circumstances, therefore, keeping in view the decision of Hon'ble Supreme Court in Jagdish Ram Vs. State of

Rajasthan (Supra), no case for interference in the inherent jurisdiction is made out. The petition is therefore, dismissed.

(H.R.PANWAR),J.

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